

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS: 01-0266**  
**Individual State Income Tax**  
**For the Tax Years 1997, 1998, and 1999**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Imposition of Individual State Income Tax Based Upon Best Information Available.**

**Authority:** IC 6-3-1-1 et seq.; IC 6-3-1-9; IC 6-3-1-12; IC 6-8.1-5-1(a); IC 6-8.1-5-1(b).

Taxpayer protested the imposition of individual income taxes based upon the best information available at the time of the audit.

**STATEMENT OF FACTS**

Taxpayer did not file individual income tax returns for three successive years. The investigating auditor requested that taxpayer submit completed returns for those years. Taxpayer declined the opportunity to do so and referred the auditor to his accounting firm. Two successive appointments with the accounting firm were unprofitable because the taxpayer was unable or unwilling to supply his own accounting firm with the necessary financial records. Accordingly, five months after making the initial request to the taxpayer, the audit calculated taxpayer's income based upon the best information available.

Taxpayer was sent notices of "Proposed Assessment" and responded by submitting a protest letter. An administrative hearing was held to permit the taxpayer to explain the rationale underlying his protest. During that hearing, taxpayer indicated that it would be possible to provide financial records that would substantiate the basis for the protest. Taxpayer requested and was permitted one month in which to submit the records. Taxpayer failed to do at the end of one month and requested an additional two weeks in which to submit the missing records. Taxpayer again failed to submit records necessary to refute the assumptions underlying the notices of "Proposed Assessment." Taxpayer did not explain the failure to present the financial records or to request an additional extension of time. Accordingly, this Letter of Findings was prepared based upon the taxpayer's initial protest letter and the information contained within the audit report.

## **DISCUSSION**

### **I. Imposition of Individual State Income Tax Based Upon Best Information Available.**

Taxpayer has protested proposed individual income tax assessments for the tax periods ending in 1997, 1998, and 1999. In the absence of taxpayer's own financial records for those years, the audit arrived at an assessment of taxpayer's income taxes based upon information contained within the taxpayer's 1996 return.

Taxpayer's densely written protest letter contained a laundry list of arguments and demands. Included within those arguments were assertions that taxpayer was not required to file an income tax return, that the Department had failed to meet its burden of proof, that the taxpayer's protest must be heard in a "de jure county or state Court, at law," and that if the Department failed to respond to taxpayer's numerous demands within 10 days, the doctrine of "estoppel by acquiescence" would preclude the Department from pursuing collection of the unpaid state income taxes.

Taxpayer's protest letter imposed upon the Department certain demands related to the Privacy Act, Freedom of Information Act, and taxpayer's rights as set out in the Internal Revenue Code. Taxpayer failed to explain how these federal statutes related to his protest concerning the imposition of Indiana individual income tax. In addition to these and numerous other demands, taxpayer required access to Department officials' social security numbers. Again taxpayer failed to explain how this information was in any way relevant to his protest.

Taxpayer's protest letter is essentially a boilerplate mishmash of irrelevant court cases and references to unrelated federal statutes. Taxpayer has failed to elaborate on or substantiate the basis for his protest and the Department will not expend its time or resources in addressing each and every one of taxpayer's misbegotten arguments.

Given that taxpayer is a "natural person" (IC 6-3-1-9), was a resident of Indiana for the years 1997, 1998, 1999 (IC 6-3-1-12), and presumptively received taxable income, the statutes imposing the state's individual adjusted gross income tax (IC 6-3-1-1 et seq.) apply with equal force to the taxpayer along with his fellow Indiana residents.

Taxpayer's failure to file tax returns for the years 1997, 1998, and 1999 or to provide the relevant financial information does not relieve him of his shared responsibility to pay Indiana state income taxes. IC 6-8.1-5-1(a) provides the Department with the following authority:

If the department reasonably believes that a person has not reported the proper amount of tax due, the department *shall* make a proposed assessment of the amount of the unpaid tax on the basis of the *best information available* to the department. The amount of the assessment is considered a payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. (*Emphasis added*).

After the Department determined that taxpayer had paid no income taxes for the three years at issue, the Department was entitled to rationally conclude that taxpayer "had not reported the

proper amount of tax due.” When taxpayer ignored the Department’s repeated efforts to obtain more precise information upon which to calculate an alternative assessment, the Department was justified in arriving at a determination of taxpayer’s liabilities based upon “the best information available.” Taxpayer has provided nothing of substance to overcome the presumption of correctness – afforded by virtue of IC 6-8.1-5-1(b) – attached to the Department’s initial assessment.

### **FINDING**

Taxpayer’s protest is denied.

DK/JM/MR – 021804